

Application Number 10/787,418  
Amendment Date 9/22/2005  
Reply to Office action of 07/05/2005

### **REMARKS / ARGUMENTS**

Claims 7, 9, 10, 11, 15, 19 and 20 have been amended. Claims 1- 6, 8, 10 and 12-14 have been cancelled. Claims 7-9, 11 and 15-20 remain in the application.

Reexamination and reconsideration of the application, as amended, are requested.

Claims 1-20 stand rejected under 35 USC 112 as failing as being indefinite for use of the term "conventional".

The term conventional has been removed from the claims.

Claims 1, 3, 5, 6 and 10 stand rejected under 35 USC 102(b) as being anticipated by Harding (US Patent Number 1,566,089).

Claims 1, 3, 5, 6 and 10 have been cancelled.

Claims 1, 3, 4 and 6 stand rejected under 35 USC 102(b) as being anticipated by Leisher (US Patent Number 2,857,036).

Claims 1, 3, 4 and 6 have been cancelled.

Claims 1 and 10 stand rejected under 35 USC 102(b) as being anticipated by Reaney (US Patent Number 4,283,164).

Claims 1 and 10 have been cancelled.

Claims 1 and 2 stand rejected under 35 USC 102(b) as being anticipated by Pfleger (US Patent Number 4,227,463).

Claims 1 and 2 have been cancelled.

Claims 1, 2 and 11 stand rejected under 35 USC 103(a), as being unpatentable over Lashlee et al. (US Patent Number 5,668,460) in view of Condict (US Patent Number 384,562).

The claims as amended are believed to be unobvious because the modification as suggested by the office action would change the principle of operation of the Lashlee '460 reference. It has been held that if the proposed modification of the prior art changes the principle of operation of the prior art being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious, In re Ratti, 270 F.2d 810, 123 USPQ 349

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(CCPA 1959). The modification of the transfer mechanism in the manner suggested would change the principle of operation of the above stated reference in the following way. The Lashlee '460 reference teaches the transfer mechanism 20 comprises a push-pull ram 56 which may be powered by a hydraulic cylinder 58 to advance a vacuum suction head 60 into engagement with an exposed side wall 62 of the battery 18 within the vehicle battery compartment 24. The vacuum suction head 60 comprises a relatively flat plate 64 circumscribed by a peripheral gasket 66 and including an array of vacuum ports 68 through which a vacuum can be drawn by means of a vacuum pump 70 or the like, Col. 4, lines 55-65. The instant invention claims an extendable scissors mechanism slidably connected to the frame, the extendable scissors mechanism is hydraulically actuated a pull knob connected to the extendable scissors mechanism, the pull knob for securing to the electric vehicle battery for pulling the battery. Thus the transfer mechanism principle of operation is changed from a ram to an extendable scissors mechanism and the vacuum suction head principle of operation would be changed to a pull knob connected to the battery.

Claims 1 and 2 have been cancelled.

Claims 2, 7-9, 11 and 12 stand rejected under 35 USC 103(a), as being unpatentable over Harding (US Patent Number 1,566,089) in view of Pfleger (US Patent Number 4,227,463).

The claims as amended are believed to be unobvious because the modification as suggested by the office action would change the principle of operation of the Harding '089 reference. It has been held that if the proposed modification of the prior art changes the principle of operation of the prior art being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious, *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The modification of the height adjustable leg in the manner suggested would change the principle of operation of the above stated reference in the following way. The Harding '089 reference teaches threaded bolts 22 pass through the side members 15, sleeves 21 and into the slots 16 and contact with the upper surface of the axles 17. The upper ends of the bolts 22 are squared, as shown, or otherwise shaped, whereby the same may be conveniently actuated by a wrench or other tool, thereby adjusting the frame 14 as desired in order that the

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tops of the rollers 20 may be brought into horizontal alignment with the platform 12 which carries the batteries, Col. 2, lines 90-101. The instant invention teaches a height adjustable leg connected to said frame for raising and lowering the frame, the height adjustable leg is hydraulically actuated. Thus manual adjustment of the frame height and hydraulic actuation are different principles of operation. Additionally, the Harding '089 reference teaches after the hook 27 has engaged the removable hook 28 the lever 25 is moved to the right, as shown in figure 2, drawing the battery upon the rollers 20, as will be clear. In case the throw of the lever 25 to the right is not sufficient to carry the battery to the rollers 20, the auxiliary lever 26 is moved to the right on its pivot until the lever coincides with the lever 25. The operator then operates both levers 25 and 26 as a single lever, thus pulling the battery upon the rollers 20, Col. 3 line 55 to Col. 4, line 68. The instant invention claims an extendable scissors mechanism slidably connected to the frame, the extendable scissors mechanism is hydraulically actuated. Thus manual link movement and hydraulic actuation are different principles of operation.

Claims 2 and 12 have been cancelled.

Claim 4 stands rejected under 35 USC 103(a), as being unpatentable over Harding (US Patent Number 1,566,089) in view of Leisher (US Patent Number 2,857,036) or Legocki (US Patent Number 3,139,196).

The claims as amended are believed to be unobvious because the modification as suggested by the office action would change the principle of operation of the Harding '089 reference. It has been held that if the proposed modification of the prior art changes the principle of operation of the prior art being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious, *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The modification of the height adjustable leg in the manner suggested would change the principle of operation of the above stated reference in the following way. The Harding '089 reference teaches threaded bolts 22 pass through the side members 15, sleeves 21 and into the slots 16 and contact with the upper surface of the axles 17. The upper ends of the bolts 22 are squared, as shown, or otherwise shaped, whereby the same may be conveniently actuated by an wrench or other tool, thereby adjusting the frame 14 as desired in order that the

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Claim 4 has been cancelled.

Claims 13-20 stand rejected under 35 USC 103(a), as being unpatentable over Harding (US Patent Number 1,566,089) in view of Pflieger (US Patent Number 4,227,463) and further in view of Leisher (US Patent Number 2,857,036) or Legocki (US Patent Number 3,139,196).

The claims as amended are believed to be unobvious because the modification as suggested by the office action would change the principle of operation of the Harding '089 reference. It has been held that if the proposed modification of the prior art changes the principle of operation of the prior art being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious, *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The modification of the height adjustable leg in the manner suggested would change the principle of operation of the above stated reference in the following way. The Harding '089 reference teaches threaded bolts 22 pass through the side members 15, sleeves 21 and into the slots 16 and contact with the upper surface of the axles 17. The upper ends of the bolts 22 are squared, as shown, or otherwise shaped, whereby the same may be conveniently actuated by an wrench or other tool, thereby adjusting the frame 14 as desired in order that the

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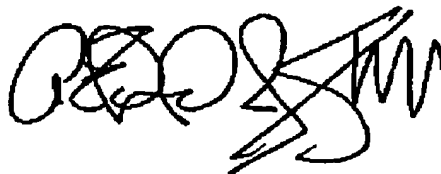
The dependent claims add additional novel features to the independent claims recited above and thus are submitted to be a-fortiori, patentable.

The subsidiary references, Mailloux, US Patent Number 668,108, Bae et al, US Patent Number 4,983,903, Kluttermann et al, US Patent Number 5,425,159, Guimarin et al, US Patent Number 5,612,606, and Ciarla et al, US Patent Number 6,371,230, have been studied, but are submitted to be less relevant than the relied upon references.

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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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**Certificate of Facsimile**

I hereby certify that this correspondence is being transmitted by fax to the United States Patent and Trademark Office on the date shown below.

Anthony Edw. J Campbell



*Thursday, September 22, 2005*